Improvement Res. No. 970-1958

For Vacating a portion of the second alley west of Spy Run Avenue between Nussbaum Avenue and the first alley south of Nussbaum Avenue. etc etc.

Resolution Adopted:

April 14, 1958

Confirmed:

Bids Received:

Contract Awarded:

Contract and Bond:

Contractor:

Report Completed:

Assessment Roll Confirmed:

Nov. 5, 1958

O. # 106-1958

DECLARATORY RESOLUTION NO. 970-1958

Which provides for the VACATION of a portion of the second alley west of Spy Run Avenue between Nussbaum Avenue and the first alley south of Nussbaum Avenue. Beginning at a point on the westerly line of said Lot No. 22, said point being situated 36 feet southeasterly from the northwest corner of said lot; thence south along the west foundation of the house situated on said lot and encroaching upon alley adjacent thereto, a distance of 19.5 feet; thence east along the south foundation of the aforementioned house a distance of 11.7 feet; thence in a northwesterly direction along the westerly line of said Lot No. 22, a distance of 22.7 feet to the point of beginning.

PLANS ORDERED: March 10, 1958

ADOPTED: April 14, 1958

ADVERTISE: WAIVED

HEARING ON CONFIRMATION: WAIVED

CONFIRMED: June 13, 1958

ASSESSMENT ROLL ORDERED: June 13, 1958

ASSESSMENT ROLL APPROVED: Nov. 5, 1958

HEARING ON CONFIRMATION OF ASSESSMENT: WAIVED

NOTICES SERVED:

ASSESSMENT ROLL CONFIRMED: Nov. 5, 1958

Ju[illegible] 13, 1958 (M.R. 39-41-12) Received signed waivers from prop. owners
Ordered City Eng. to prepare prelim. A.R.

11-5-58 Rec. assess. rol of benefits & damages (P.O.'s waived right of public hearing by duly signed waivers)
Confirmed & Order sent to Dept of Finance

Spy Run, from Nussbaum Vacate Alley BO 106-58 R. 970-58

R. 969 - Nussbaum add See Reverse Side for Description:

CAT. NO. 1-0166

Petition to vacate 2nd alley west of Apy Run Avenue from south property line of Nussbaum to its southern terminus.

Received Petition: November of 1956 - BW Mtg Nov. 20, 1956

Referred to City Plan Commission

(note: a property owner must deed a portion of land for this project)

March 3, 1958: Received formal consent of Attorney, O.E. Fuelber, that an equivalent piece of ground would be deeded to the City.

March 10, 1958; Sent memo to City Eng. to prepare metes & bounds description of portion to be vacate.

4/14/58: M.R. 38-325-8: Rec'd final plans & res. from C.E. (Also, see 4/14/58- M.R. 38-324-7 - Res. 969 - for the OPENING, in connection with same project. CARDEX MADE.

4/14/58: ← Board Adopted Resolution (also R. 969). Notice & Hearing ~~not necessary, per JLH. He is to contact Atty. Fuelber for signing of Waiver.~~

4/18/58: Waivers sent to Attorney Foelber for 4 ppp. owners to sign to waive Public Hearing.

Spy Run (from Nussbaum) VACATE ALLEY bo 106 (58) Res 970-1958

Description:

A portion of the 2nd alley W. of Spy Run Ave. between Nussbaum Ave. and the 1st alley S. of Nussbaum. Beginning at a point on the westerly line of Lot 22, said point being situated 36 ft. southeasterly from N.W. corner of said lot; thence S. along west foundation of house situated on said lot & encroaching upon alley adjacent thereto, a distance of 19.5'; thence E. along S. foundation of aforementioned house a distance of 11.7'; thence in a northwesterly direction along the westerly line of Lot 22, a distance of 22.7' to the point of beginning.

ALSO SEE CARDEX TITLED: "NUSSBAUM AMENDED ADDITION LOT 22 ALLEY OPEN" under declaratorys.

COPY

DECLARATORY RESOLUTION No. 970 19 58

For the Vacation ~~Opening Condemnation of right of way for utility purposes~~ of a portion of the second alley west of Spy Run Avenue between Nussbaum Avenue and the first alley south of Nussbaum Avenue.

Resolved by the Board of Public Works of the City of Fort Wayne, Indiana, that it is desired and deemed necessary to vacate a portion of the second alley west of Spy Run Avenue between Nussbaum Avenue and the first alley south of Nussbaum Avenue, more particularly described as follows:

(See Attached Sheet)

All as shown by a plan of such proposed ~~Opening~~ Vacation ~~Condemnation of right of way for utility purposes~~ as above described, now on file in the Office of the Department of Public Works of the City of Fort Wayne, Indiana

The cost of said Vacation ~~Opening Condemnation of right of way for utility purposes~~ shall be assessed against the property beneficially affected thereby.

The property which may be injuriously or beneficially affected by such Vacation ~~Opening Condemnation of right of way for utility purposes~~ is described as follows: City of Fort Wayne, Indiana and Lot No. 22, P. Nussbaum's Amended Addition. Said addition inclusive to the City of Fort Wayne, Indiana.

~~All lots and lands.~~

All according to the method and manner provided for in an act of the General Assembly of the State of Indiana, entitled "An Act Concerning Municipal Corporations", as approved March 6, 1905 and the provisions of all acts amendatory thereto and supplemental thereof, including the right to bond assessments as in said law ordered.

Assessments if deferred are to be paid in ten equal installments with interest at the rate of five (5)% per annum. Under no circumstances shall the City of Fort Wayne, Indiana be or be held responsible for any sum or sums due from the said property owner or owners, or for the payment of any bond or bonds, except for such moneys as shall have been actually received by the City from the assessments for such property damages as said City is by said above entitled act required to pay. All proceedings had in the making of said improvement, assessment of property, collection of assessments and issuance of bonds therefor, shall be as provided for in said above entitled act and all amendments thereto and supplemental thereof.

~~The vacation of the above described Street and alleys shall be subject to an easement for the use of the City of Fort Wayne, Indiana, and other public utilities for the construction and maintenance of sewers, water mains, gas mains, electric pole lines and conduits, telephone and telegraph pole lines and conduits.~~

All Streets, lots and lands affected by the above described vacation are situated in the southeast quarter of Section Thirty-five, Township 31 north, Range 12 east and lie wholly within the corporate limits of the City of Fort Wayne, Indiana.

ADOPTED THIS 14th DAY OF April 1958.

Attest:
Secretary Board of Public Works.

B J Swanson

Board of Public Works.

RB
EG 6/16

OFFICE OF
BOARD OF PUBLIC WORKS

FORT WAYNE 2, INDIANA

B.O. 106-1958

Date 39-41-12 June 13, 1958

To Edward Green, City Engineer

Subject Declaratory Res. No. 970 Vacate Alley , Spy Run from Nussbaum

At our meeting today, the Board received a WAIVER OF PUBLIC HEARING, signed by Arthur E. Schott, Phyllis L. Schott, Donald L. Scribner and Mary I. Scribner, in the matter of confirming subject Declaratory Resolution.

You may proceed to prepare the ~~final~~ Preliminary Assessment Roll.

The signing of the waivers eliminated the necessity of advertising; therefore, the Assessment Roll would be dollar damages and dollar benefits.

BOARD OF PUBLIC WORKS

B.J. Swanson, Chairman
John Cooper
Orin M. Darling

JLH/jm

Attached: Resolution and Property Ownership List

Signed

Reply:

10-31-58

Preliminary assessment roll of $1.00 Benefit -- $1.00 Damage completed and attached.

Edward Green
City & Adm. Engr.

RECEIVED
OCT 31 1958

Signed

SENDER: REMOVE & KEEP 3RD COPY - RECEIVER: ANSWER & KEEP 2ND COPY - RETURN 1ST COPY

Petition for the DEDICATION of St. Joseph Drive (Swift Drive)
Rec City Plan: 10/7/57
Report Received: 10/15/57

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in 2015

https://archive.org/details/declaratoryresol0970unse

PETITION

Fort Wayne, Ind., November 17th, 1956

To the Board of Public Works of the City of Fort Wayne:

Gentlemen:

The undersigned, owners of real estate on Nussbaum Avenue, from _____ to _____ respectfully petition for the passage of a resolution providing for the vacation of the second alley west of Spy Run Avenue from the south property line of Nussbaum Avenue to its southern terminus.

NAME	ADDRESS	
Arthur E. Schott	(328¼) 332 Nussbaum Ave	Petitioner
Phyllis L. Schott	(328¼) 332 Nussbaum Ave	
Donald L. Sickles	336 Nussbaum	
Mary D. Sickles	336 Nussbaum	
Jack Kitzmiller	342 Nussbaum	
Marie Kitzmiller	342 Nussbaum Ave	

Petition for Passage

of a Resolution for

_____

_____

_____

_____

from_____

to_____

Filed with the Board of Public Works

OFFICE OF
BOARD OF PUBLIC WORKS

FORT WAYNE 2, INDIANA

MAR 10 RECD

B.O. # 1..6

Date March 10, 1958

To Ed Green, City Engineer Immediate Action

Subject Vacation of Alley - portion of the ~~first~~ alley west of Spy Run Ave., south of Nussbaum Ave.

In Lot #22 in P. Nussbaum Amd. Addition to City of Fort Wayne, a house encroaches upon the alley right-of-way. We have recently reached an agreement with the property owner to vacate the portion of the alley that his house encroaches upon and at the same time open the equal amount of property immediately west of the encroachment (which is City property), and dedicate that as alley right-of-way.

We are enclosing a plat of the area and you will note that at Nussbaum and the alley entrance there is a very sharp turning radius. The property owner will dedicate 10' of his property commencing at his west property line and extending 10' east, thence south at a right angle to the ~~alley right-of-way~~ South line of Nussbaum Ave to the alley line.

Prepare the metes and bounds description for the portion of the alley we propose to vacate, the portion of the City property to be dedicated as alley opening, and the portion of the land of the property owner.

Signed BOARD OF PUBLIC WORKS JLH: jc

Reply: April 10, 1958

Drawings, resolutions and property ownership list completed and attached.

This order is divided into two resolutions; 969-1958 for the opening, and 970-1958 for the vacation. The easement clause was stricken from the vacation resolution because the house encroaches on this area, which would prohibit future utility construction.

Donald E. Bodeker
Donald E. Bodeker

DEB/mkh
attachs.

MIN REC 4/14/58
38-324-7
and
38-325-8

R. 969-1958 OPEN
R. 970-1958 VACATE

Signed

ORDER: REMOVE & KEEP 3RD COPY - RECEIVER: ANSWER & KEEP 2ND COPY - RETURN 1ST COPY

Board of Works Copy - [illegible] folder

W A I V E R

To the Board of Public Works of the City of Fort Wayne:

Gentlemen:

The undersigned, owners of real estate abutting the second alley west of Spy Run Avenue between Nussbaum Avenue and the first alley south of Nussbaum Avenue, set out described as follows to-wit:

A PARCEL OF LAND LYING WITHIN THE RIGHT-OF-WAY OF A PUBLIC ALLEY, SITUATED ALONG THE WEST LINE OF LOT NO. 22 IN P. NUSSBAUM'S AMENDED ADDITION TO THE CITY OF FORT WAYNE, BEING MORE SPECIFICALLY DESCRIBED AS FOLLOWS:

BEGIN ING AT A POINT ON THE WESTERLY LINE OF SAID LOT NO. 22, SAID POINT BEING SITUATED 36 FEET SOUTHEASTERLY FROM THE NORTHWEST CORNER OF SAID LOT; THENCE SOUTH ALONG THE WEST FOUNDATION OF THE HOUSE SITUATED ON SAID LOT AND ENCROACHING UPON ALLEY ADJACENT THERETO, A DISTANCE OF 19.5 FEET; THENCE EAST ALONG THE SOUTH FOUNDATION OF THE AFOREMENTIONED HOUSE A DISTANCE OF 11.7 FEET; THENCE IN A NORTH-WESTERLY DIRECTION ALONG THE WESTERLY LINE OF SAID LOT NO. 22, A DISTANCE OF 22.7 FEET TO THE POINT OF BEGINNING,

do hereby respectfully request the Board of Public Works to adopt a final resolution for the vacation of the said described alley and do by this instrument waive public notice of said resolution as provided by Statute to that this Honorable Board may issue a final order confirming the preliminary order or resolution for said vacation.

The undersigned further represents that this instrument acts as a waiver of any right to object to said order. We do further hereby waive any hearing on said resolution and release all rights to file any remonstrance against adoption of said resolution.

DATED: April 23, 1958

Arthur E. Schott
ARTHUR E. SCHOTT

Phyllis L. Schott
PHYLLIS L. SCHOTT

Donald L. Scribner
DONALD L. SCRIBNER

Mary I. Scribner
MARY I. SCRIBNER

William B. Nuckols
Approved as to form and legality

ALLEY RIGHT-OF-WAY TO BE VACATED

A parcel of land lying within the righ-of-way of a public alley, situated along the west line of Lot No. 22 in P. Nussbaum's Amended Addition to the City of Fort Wayne, being more specifically described as follows:

Beginning at a point on the westerly line of said Lot No. 22, said point being situated 36 feet scutheasterly from the northwest corner of said lot, thence south along the west foundation of the house situated on said lot and encroaching upon alley adjacent thereto, a distance of 19.5 feet, thence east along the south foundation of the aforementioned house a distance of 11.7 feet, thence in a northwesterly direction along the westerly line of said Lot No. 22, a distance of 22.7 feet to the point of beginning.

Office of
Board of Public Works

Fort Wayne 2, Indiana

B.O. 106

Date March 10, 1958

To Ed Green, City Engineer Immediate Action

Subject Vacation of Alley - portion of the first alley west of Spy Run Ave., south of Nussbaum Ave.

In Lot #22 in P. Nussbaum Amd. Addition to City of Fort Wayne, a house encroaches upon the alley right-of-way. We have recently reached an agreement with the property owner to vacate the portion of the alley that his house encroaches upon and at the same time open the equal amount of property immediately west of the encroachment (which is City property), and dedicate that as alley right-of-way.

We are enclosing a plat of the area and you will note that at Nussbaum and the alley entrance there is a very sharp turning radius. The property owner will dedicate 10' of his property commencing at his west property line and extending 10' east, thence south at a right angle to the alley right-of-way.

Prepare the metes and bounds description for the portion of the alley we propose to vacate, the portion of the City property to be dedicated as alley opening, and the portion of the land of the property owner.

Signed BOARD OF PUBLIC WORKS JLH:je

Reply:

Signed

SENDER: REMOVE & KEEP 3RD COPY - RECEIVER: ANSWER & KEEP 2ND COPY - RETURN 1ST COPY

Board mtg. 3/5-58

O. E. FUELBER
Attorney
613-617 CITIZENS TRUST BUILDING
FORT WAYNE, IND.

March 3, 1958

Board of Public Works,
City of Fort Wayne,
Fort Wayne, Indiana.
-Attention Mr. Hallett

Gentlemen: In re: Alley Vacation

After our conference this morning, I obtained the consent of the parties interested in the partial vacation of alley and deeding of an equivalent piece of ground to the city, all as discussed by us this morning.

When I transmitted this consent to Mr. Hallett and your attorney, they suggested that I notify you informally in writing. This is it.

Will you please have the necessary descriptions furnished by the City Engineer and proceed with the necessary resolution.

Thanks for your attention and courtesy in this matter.

Yours very truly,

O. E. Fuelber

OEF/J

DISAPPROVED APPROVED

To be filed with Special Folder - Front Office - Board of Works under:

VACATING - 2nd alley west of Spy Run from Nussbaum

December 20, 1957

THE BOARD OF WORKS VERBALLY AGREED WITH DAVID HEATON, ATTORNEY, THAT IF THE OWNER OF THE PROPERTY WILL DEED:

BEGINNING AT THE NORTHWEST PROPERTY LINE EXTENDING EAST 10 FEET FROM THE ALLEY AND BEGINNING AT THE NORTHWEST PROPERTY LINE AND EXTENDING SOUTH 10 FEET,

THE CITY WILL THEN VACATE THE PORTION OF ALLEY THAT IS NOW BEING ENCROACHED UPON.

B.J. Swanson (s)
John Cooper (s)
Orin M. Darling (s)

JLH:jm

Note:

Property Owner: Ray Davis

Attorney, Mr. Heaton, discussed this with Board members at meeting, above date.

November 27, 1956

Mr. Harold L. Kelsey
1511 Oakland Street
Fort Wayne, Indiana

Dear Sir:

Re: Your letter of Nov. 19, 1956
2nd alley West of Spy Run &
south of Nussbaum Avenues.

Mr. R. Y. Adams, the City Planning Director, reports that he can not approve the above requests without additional information.

He will need to know who the present owner is, where to put the new alley and who will pay the cost of same.

Yours truly,

For: BOARD OF PUBLIC WORKS

By: J. L. Hallett
J. L. Hallett, Secretary

JLH:c
cc: Mr. R. Y. Adams

City of Fort Wayne

Indiana

OFFICE OF
BOARD OF PUBLIC WORKS

FORT WAYNE, INDIANA

November 21, 1956
Board meeting of November 20, 1956

Mr. R. Y. Adams
Planning Director
505 Standard Building
Fort Wayne, Indiana

Dear Sir:

We are referring to you for investigation and report a petition for the vacating of the second alley west of Spy Run Avenue from the south property line of Nussbaum Avenue to its southern terminus.

Yours truly,

FOR: BOARD OF PUBLIC WORKS

BY: J. L. Hallett

J. L. Hallett, Secretary

JLH:c
enc.

Cannot approve without additional information
Rya 11-26-56

3

November 21, 1956
Board meeting of November 20, 1956

Mr. R. Y. Adams
Planning Director
505 Standard Building
Fort Wayne, Indiana

Dear Sir:

We are referring to you for investigation and report a petition for the vacating of the second alley west of Spy Run Avenue from the south property line of Nussbaum Avenue to its southern terminus.

Yours truly,

FOR: BOARD OF PUBLIC WORKS
BY: J. L. Hallett
J. L. Hallett, Secretary

JLH:c
enc.

REAL ESTATE & INSURANCE

Harold L. Kelsey, Realtor

PHONES A-55573 & E-2284
1511 OAKLAND STREET
FORT WAYNE 7, INDIANA

November 19th
1
9
5
6

Board of Public Works
City Hall
Fort Wayne 2, Indiana

Re: 2nd Alley West of Spy Run &
South of Nuttman Avenues

Gentlemen:

We are inclosing signed petitions to vacate and reopen above alley due to the fact that the plat and land useage do not conform.

The house at 328-332 Nuttman Avenue extends approximately 10 feet over platted alley and this condition has existed since the structure was moved to the present location from Spy Run Avenue to clear land for building the Nuckolls School in 1916.

We trust that you will take the proper action on this discrepancy as soon as possible.

Sincerely

Harold L. Kelsey

Harold L. Kelsey

Inc's:
cc:
" : David H. Heaton, Lawyer
1525 Lincoln Tower

Declaratory
~~Improvement~~ Resolution No. 970-1958 For ~~Improving~~ the vacation of a portion of the second alley west of Spy Run Avenue between Nussbaum Avenue and the first alley south of Nussbaum Avenue.

	OWNER'S NAME	ADDRESS	R. P. O.	NUMBER OF LOT	NUMBER OF BLOCK	NUMBER OF O. L.	DESCRIPTION
1	CITY OF FORT WAYNE						DIKE PROPERTY
2	SCHOTT, ARTHUR E. & PHYLLIS L.			22			P. NUSSBAUMS AMD. ADD.
3	SCRIBNER, DONALD L. & MARY I.			21			" " " "
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